

ESCHEATED SLAVES.

RETURN to an Address of the Honourable The House of Commons,
dated 3 June 1829;—for,

AN ACCOUNT of the final Disposal of the SLAVES ESCHEATED to The
CROWN in the Colonies of the *West Indies*, since 1st January 1821,
and whose Cases have been referred to the Decision of His Majesty's
Government.

Colonial Department, }
February 1831. }

HOWICK.

Ordered, by The House of Commons, to be Printed,
7 February 1831.

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ESCHEATED SLAVES.

AN ACCOUNT of the final Disposal of the SLAVES ESCHEATED to The CROWN in the Colonies of the *West Indies*, since 1st January 1821, and whose Cases have been referred to the Decision of His Majesty's Government.

No. 1.

COPY of a LETTER from *R. W. Horton*, Esq. to *Geo. Harrison*, Esq.; dated Downing-street, 31st August 1823; with one Enclosure.

SIR,

Colonial Office, 31st August, 1823.

THE case of Slaves in the West India Islands escheating to the Crown is of very constant occurrence, and has given rise to a question whether, when they have been placed in that situation, their freedom ought not to be granted to them, instead of their being retained or sold as slaves for the benefit of the Crown, or relinquished to persons by whom they would be kept in a state of bondage. This subject was adverted to in a communication from this Department to the Treasury in November 1819, in consequence of an application from the Governor of Dominica for instructions upon this point; and this application has lately been renewed; a reference upon the subject has in consequence been made to the Law Officer of this Department, a copy of whose Report is herewith transmitted; and I am directed to request you will bring the same under the consideration of the Lords Commissioners of the Treasury, in order that Lord Bathurst may be informed, previously to his making any general communication, as is therein proposed, to the Governors of the several West India Colonies, whether their Lordships concur in the suggestions offered at the conclusion of the Report, and particularly those that may lead to expense which can only be defrayed under their Lordships authority, and whether they deem it expedient to propose any regulations upon this point.

I am, &c.

(signed) *R. W. Horton*.

Sir,

30th May 1823.

IN obedience to your directions I have perused a despatch addressed by Governor Maxwell to Lord Bathurst, dated at St. Christopher's, 5th Feb. 1823, requesting directions how he is to act in the event of slaves becoming escheated to the Crown within his government; and I have also perused the written statement transmitted to me with that despatch, in which the question is discussed as to the manner in which escheated slaves are to be disposed of, in case it should be deemed right to grant to such persons their liberty: and I am, as I understand, to express the opinion I have formed as to the manner in which such persons can most properly be disposed of, under the existing laws of Great Britain and of the West India Islands.

The case of slaves escheating to the Crown is of very frequent occurrence in the West India Islands, because the great body of the free coloured population

30 May 1823

being illegitimate, if any such person dies intestate, and without children born in marriage, the slaves of which he or she may have been seised will of course escheat. The necessity of some general rule on this subject is therefore apparent.

I do not presume so far to deviate from my professional province as to refer to any of those general political considerations which might be urged in favour of the enfranchisement of this class of persons. I have however to state, that this mode of dealing with them would be the most consonant to the practice and spirit of the Law of England. In this country the Crown very rarely retains property acquired by escheat for want of heirs, where the party, who but for the illegitimacy of the deceased person, would have been the heir, makes application for a grant of it. In other words, the title founded on natural equity and justice is in such cases preferred to that which is founded merely upon positive law. Now in applying this principle to the case of escheated slaves, the inquiry obviously is, what person, upon the principles of natural justice, has the strongest claim to consideration. The competitors are, on the one hand, the slave himself asking his own freedom, and on the other hand, the party, who but for the illegitimacy of the deceased intestate, would have been heir, seeking to retain him in bondage. If these contending pretensions are referred to the principles of natural justice, there cannot, as it seems to me, be any hesitation in giving the preference to that of the slave himself. In confirmation of the same conclusion, it may be observed, that by the civil law slaves forfeited to the Emperor, became entitled to freedom,—a maxim adopted with the express view of favouring liberty. If it should be adopted as a general rule that slaves escheated to the Crown are to be manumitted, it is obvious that the Crown might qualify the gift of freedom by any restrictions which the welfare of the slave himself, or the safety of society, or a fair consideration for the interest of the disappointed claimant, might require. The practical question to be considered then is, what restrictions could be most prudently and effectually enforced?

First.—Among escheated slaves there will occasionally be found persons wholly and permanently incapable, either from age or chronical diseases, of providing for their own support. To such persons, freedom, though a nominal boon, would be a real calamity, unless some means were found for supplying that maintenance which, as long as they continued in a servile condition, the master would have been bound to provide. Persons in this state of infirmity or sickness must, I conceive, when they devolve to the Crown, be regarded as a sort of *damnosa hæreditas*, an inheritance, however, which it is impossible to repudiate, and which therefore, however burdensome, must unavoidably become a charge on the public revenue. There will be no competition of any private claimant in any case of this nature.

Secondly.—Other slaves will escheat to the Crown in a state of infancy, or at an age so early as to postpone for several years the time when they can properly earn their own subsistence. During their very early years, such persons must also become a burthen on the State; but it should seem easy to replace the money expended on their support during infancy, by requiring them, as soon as they may become capable of labour, to work for some definite time upon any public buildings or other undertakings of that nature; if indeed it would not be in reality a more beneficial course for all parties to direct such children to be apprenticed to some trade by which they might afterwards earn their own living.

Thirdly.—Among escheated slaves some might be found of habits so depraved and vicious as to render the continued coercion of a master essential both to their own welfare and to the peace of society. Others again might be in a state of such entire ignorance as to be utterly unable to use their liberty for their own real advantage. I should conceive that, with reference to both of these descriptions of persons, it might not be inexpedient to retain them in the possession of the Crown as slaves, postponing their enfranchisement until the vicious habits in the one case, or the ignorance in the other, were removed. It is obvious that to this end means ought to be provided at the public expense for their reformation and instruction.

Fourthly.—Among the slaves escheating to the Crown will be found many persons not included within any of the preceding classes; that is to say, persons neither too old nor too young for labour, free from chronical diseases, exempt from immoral habits, and possessing sufficient knowledge to enable them to earn their

their own subsistence. This class of persons may be expected to be numerous, and they are precisely the persons for a grant of whom the natural kindred of the deceased would make application. They might be enfranchised at once without any prejudice to themselves or to society; and the only question respecting them is, whether in such cases any compensation should be made to the disappointed claimant. With reference to that question, I have to observe that four different modes may be suggested of making that compensation. First, the enfranchised slave might be required, as the price of his manumission, to pay to the claimant some fixed sum of money, to be saved out of his future earnings: or, secondly, the manumission might be delayed for a certain number of years, the claimant during the interval being entitled to the labour of the slave: or, thirdly, the slave might be emancipated at once, but apprenticed for a term of years to the party petitioning: or, finally, the Crown might pay to the disappointed claimant a sum equal to one third or one fourth of the appraised value of the slave. Which then of these modes of compensation is to be preferred?

In answering that question, I would observe, first, that to leave the slave to work out a sum of money as the price of his freedom would probably be to give him liberty in name but not in fact, since in the great majority of cases, his daily earnings would not be more than sufficient to purchase his daily bread: and, secondly, that to postpone the gift of freedom for any number of years, would not only be a bad preparative for liberty, but would probably have the effect of setting the slave free at that precise period of life when he would be least able to make provision for himself and his family: and, thirdly, that to apprentice persons in this condition, would, as experience has amply proved, be to recur to a system leading to every species of abuse and inconvenience: and, fourthly, that to call on the Crown to pay out of the public revenue a compensation to the disappointed claimant, would be nothing else than to convert into a loss and prejudice a prerogative which is properly a source of advantage and gain.

For these reasons, it appears to me that there is no mode of compensating the disappointed claimant which is not open to great objection. The proper solution of the difficulty therefore seems to be, that it should be made known distinctly throughout the colonies, that the Crown will not in future make any grant of escheated property of this nature. If after such a notice persons permit their slaves to escheat, no one can reasonably complain if a grant of such slaves is refused without compensation.

To sum up, therefore, the whole of the preceding remarks, I should suggest to you, for Lord Bathurst's consideration, the propriety of communicating to the governors of the several West Indian colonies, that in future no grants will be made of escheated slaves; but that all such persons will be emancipated, with the exception, first, of the aged; secondly, of the incurably diseased; thirdly, of the profligate; and, fourthly, of those whose ignorance is such as to prevent their earning their own subsistence. With regard to the two latter classes, I have to suggest that the governors should be instructed to take the best means for their amendment and instruction, and to emancipate them when those means shall have proved effectual. With regard to escheated infant slaves, I think that they should be apprenticed to trades by which they may earn their own living.

Finally, I am of opinion that there is no law in force in * any of His Majesty's colonies which could prevent the Crown from acting upon these suggestions, if it should be deemed expedient to adopt them.

* *Note.* The law of Jamaica affords the single exception of which I am aware. J. S.

I have the honour to be, &c. &c.

(signed)

Ja^s Stephen, jun.

No. 2.

COPY of a LETTER from *R. W. Horton, Esq.* to *Geo. Harrison, Esq.*;
dated Downing-street, 17th January 1825.

Sir,

Downing-street, 17th January 1825.

I AM directed to refer you to my letter of the 31st of August 1823, adverting to a communication made on the 3d of November 1819, and enclosing a Report of

the counsel of this Department on the subject of the disposal of slaves escheating to the Crown in His Majesty's colonies in the West Indies. I beg again to call your attention to the request which I was then directed to convey, that the opinion of the Lords Commissioners of the Treasury upon the measures suggested in the Report might be made known to Lord Bathurst, previously to the issue by his Lordship of a general instruction on the subject to the governors of the West India colonies.

I have, &c.

(signed) *R. W. Horton*

No. 3.

EXTRACT of a LETTER from *R. W. Horton*, Esq. to *G. Harrison*, Esq. dated Downing-street, 30th September 1825.

" WITH respect to the slaves who form part of this escheat, I am directed to refer you to my letter of the 17th January last, to which no reply has been received, and in which I had the honour of calling your attention to two unanswered communications of the 31st of August 1823, and of the 3d of November 1819, and of repeating a request that Lord Bathurst might be favoured with the opinion of the Lords Commissioners of the Treasury on certain suggestions relative to the disposal of slaves escheating to the Crown."

No. 4.

COPY of a LETTER from *R. W. Horton*, Esq. to *W. Hill*, Esq. dated Downing-street, 11th November 1826.

Sir,

Downing-street, 11th November 1826.

* Note. This is an error for 31st August 1823.

WITH reference to my letter of the 17th January 1825, I am directed by Lord Bathurst again to refer you to my communication of the **3rd of November 1819*, enclosing a Report of the counsel of this Department on the subject of slaves escheating to the Crown. I now enclose to you for the information of the Lords Commissioners of the Treasury, an extract from the Report of the Legal Commissioners who have visited his Majesty's colonies in the West Indies, by which it appears that escheated slaves continue to be sold on behalf of the Crown, a practice from which it is Lord Bathurst's opinion that the officers of the Crown should be directed immediately to desist.

I have, &c.

(signed) *R. W. Horton.*

No. 5.

COPY of a LETTER from *R. W. Horton*, Esq. to *W. Hill*, Esq.; dated Downing-street, 24th March 1827.

Sir,

Downing-street, 24th March 1827.

* Note. This is an error for 31st August 1823.

WITH reference to my letters of the 17th January 1825, and the 11th of November last, I am directed by Lord Bathurst again to refer you to the communication from this Department of the *3d of November 1819**, enclosing a report of the counsel for this Department on the subject of slaves escheating to the Crown. I now transmit to you for the consideration of the Lords Commissioners of the Treasury, the enclosed copy of a despatch from the Governor of Barbadoes, forwarding a petition from Mrs. E. R. Molton, and others, praying to be allowed possession of a female slave who has escheated to the Crown.

I have, &c.

(signed) *R. W. Horton.*

No. 6.

COPY of a LETTER from *W. Hill*, Esq. to *R. W. Hay*, Esq.;
dated, Treasury, 20th February 1828.

Sir,

Treasury Chambers, 20th February 1828.

I HAVE it in command from the Lords Commissioners of His Majesty's Treasury to acquaint you, for the information of Mr. Secretary Huskisson, that my Lords have had under their consideration the several letters from the Secretary of State of the 3d November 1819, 31st August 1823, 17th January 1825, 11th November 1826, and 24th March 1827, in regard to the manner of disposing of slaves, which have or which may hereafter escheat to the Crown. The tendency of the recommendation of the Secretary of State is, that slaves so escheated should not be sold by the Crown, or regranted as slaves to any persons whatever. Should that course be finally adopted, it will be necessary to prepare some plan either for their manumission, or for their management or employment by the Crown, and for the care and support of those who from being infants, aged, or infirm, may be incapable of assisting themselves. With respect to the sale of slaves, my Lords would feel no difficulty whatever in prohibiting the practice in all cases where the sale is intended for the benefit of the Crown, and where no equitable claims for the grant of the slaves, or for their value, may be made; but my Lords feel great difficulty in coming to the general determination that no slaves who may escheat to the Crown should be granted to any persons whatever.

It has hitherto been the invariable practice of the Crown to treat escheated property in the West Indies, whether of lands, personalty or leases, in the same manner as personal property and land escheating to the Crown in the United Kingdom is treated. In all which cases, applications from natural relations, or other parties having equitable claim to such property, are received and considered; and it has been usual to grant such property among these equitable claimants: those claims in the case of personalty are investigated by the King's advocate, and in the case of real property, by the attorney and solicitor general; and the same rules are usually applied to the distribution and grants, as in cases of intestates, where there are lawful relations who can legally claim.

In consequence of the Act of the 1st of Anne, doubts were some years ago entertained whether the Crown could in cases of freehold property, grant more than a lease of the premises for a term of years, either to the discoverer of the Crown's rights, or to persons, who from natural relationship or otherwise, had equitable claims upon the property; but an Act was passed in the 59th Geo. 3, c. 94, authorizing the Crown to grant such escheated property in perpetuity, should it seem fit to do so; and in fact the Crown has in the great majority of cases which have occurred considered itself as a trustee, and has granted such escheated property to persons having equitable claims, reserving in general but little more than necessary to pay the actual expenses of the proceedings; and my Lords cannot but fear that any departure, in regard to slaves, from this general practice, would inflict a great and undeserved hardship upon many persons having equitable claims to the property. A decision, however, upon the general principles is now become necessary, because an application is now before this Board for the grant of property which several years ago was forfeited to the Crown in the island of Grenada. This property was vested in the Crown by Act of Attainder passed in the island in the year 1795, and has ever since been managed by an agent appointed by the Crown, the slaves upon the property having been continued as slaves belonging to the Crown, and worked and managed in the same manner as slaves upon private estates. In the year 1823, this Board, upon the advice of the then attorney and solicitor general, gave up to the heirs of the proprietors of the estate who were attainted in 1795, one moiety of the net profits accruing from the cultivation of those estates; and since that time further documents and circumstances have been produced, upon which the attorney and solicitor general, Sir James Scarlett, and Sir N. C. Tindall, have advised that the whole property, consisting of three estates, and nearly 300 negroes, should be granted to the heirs.

My Lords would therefore request Mr. Secretary Huskisson to reconsider this subject, and to favour my Lords with his opinion, whether it would not be most just and equitable to continue the course with respect to property (including slaves) escheating to the Crown in the West Indies, which has been in practice there as well as in the United Kingdom, namely, that the Crown should continue to dispose of property so escheating to the persons having equitable claims thereto, requiring, however, in the case of slaves, certificates from the governor of the islands of the general good character of the applicants.

I am, &c.

(signed) *W. Hill.*

No. 7.

COPY of a LETTER from *R. W. Hay*, Esq. to *W. Hill*, Esq.;
dated Downing-street, 5th May 1828.

Sir,

Downing-street, 5th May 1828.

I AM directed by Mr. Secretary Huskisson to convey to you, for the information of the Lords Commissioners of His Majesty's Treasury, in reply to your letter of the 20th of February last, Mr. Huskisson's opinion that the escheated property in Grenada therein adverted to should be virtually restored to the equitable claimants, by granting a lease to them at a peppercorn rent, subject to the necessity of producing at certain periods returns of the number of slaves, and other proofs of good management.

I have, &c.

(signed) *R. W. Hay.*

No. 8.

COPY of a LETTER from the Hon. *J. Stewart* to *R. W. Hay*, Esq.;
dated Treasury, 14th July 1828.

Sir,

Treasury Chambers, 14th July 1828.

I HAVE laid before the Lords Commissioners of His Majesty's Treasury your letter of the 5th May last, in reply to the letter of this Board of the 20th February last, stating the opinion of the Secretary of State, that the escheated property in Grenada therein adverted to should be virtually restored to the equitable claimants by granting to them a lease at a peppercorn rent, subject to the necessity of producing returns of the number of slaves, and other proofs of good management; and I am commanded by their Lordships to request you will move Secretary Sir George Murray to cause my Lords to be informed more particularly as to what proofs of good management in his opinion it would be proper to call upon the parties to produce.

I am, &c.

(signed) *J. Stewart.*

No. 9.

NOTE.

Between the above letter and the following answer to it, some oral communication took place between the Colonial Office and the Treasury, the substance of which will be readily gathered from the answer.

No. 10.

COPY of a LETTER from *R. W. Hay*, Esq. to the Hon. *J. Stewart*;
dated Downing-street, 15th December 1828.

Sir,

Downing-street, 15th December 1828.

I AM directed by Secretary Sir George Murray to acquaint you that he has had under his consideration the subject of your letter of the 14th July last; and he is willing to acquiesce in the opinion which he understands to be entertained by the Lords Commissioners of the Treasury, that on restitution of the escheated property in Grenada to the families of Clozier and Passée, humane treatment to the slaves should be provided for, by making the grant in the manner of a lease for 999 years, at a peppercorn rent, subject to forfeiture, at the will and discretion of their Lordships, in case of proof, to their satisfaction, of ill-treatment of any of the slaves, and subject to such conditions in respect of the treatment of or period of work imposed upon the slaves, as the Lords of the Treasury may at any time direct.

I have, &c.

(signed) *R. W. Hay.*

No. 11.

EXTRACT of a LETTER from *Horace Twiss*, Esq. to the Hon. *J. K. Stewart*;
dated Downing-street, 16th August 1830.

I AM directed to acquaint you, in reference to my three letters of the 11th, 12th and 13th of this month*, that Sir G. Murray feels it his duty, at the same time that he transmits for the consideration of the Lords Commissioners of the Treasury the documents contained in those letters, to recal their Lordships attention to the correspondence on the general subject of the disposal of escheated slaves, which has taken place between their Lordships department and that over which he presides.

On a review of the correspondence in question (which is enumerated in the margin), their Lordships will perceive that so early as the year 1819, Lord Bathurst, then secretary of state, addressed their Lordships on this subject; and that in August 1823 he furnished them with a report on it, drawn up by the counsel for this department; and he intimated at the same time, that he only awaited their Lordships concurrence to issue instructions to the several governors of his Majesty's West India possessions, in conformity with the opinions set forth in that Report. The general effect of these opinions was, that slaves escheating to the Crown ought not to be sold or granted, or in any manner continued in slavery, by the act of the Crown. Their Lordships concurrence was not however signified, and no instructions were issued. It will appear that this Department recalled the subject to their Lordships notice on various occasions; viz. at the dates noted in the margin, and finally in a letter written by Mr. Huskisson's direction on the 29th April 1828, which was answered by Mr. Stewart on the 20th May following.

The special case which gave rise to Mr. Horton's letter of 24th March 1827, was that of a large property in Grenada, comprising a numerous gang of slaves. The property had escheated many years ago, and the slaves had continued on the plantation in the possession of the Crown, and had been employed to cultivate it under the superintendence of an agent of the Government. It was their Lordships opinion that the property should be granted to the natural heirs of those by whom it had been forfeited; and in this case having regard to the peculiar circumstances, and to the multitude of slaves who would have been manumitted at once if another course had been pursued, the then secretary of state signified his acquiescence in their Lordships opinion, that the property, inclusive of slaves, should be granted to the equitable claimants, subject to resumption by the Crown should ill usage of the slaves be proved.

* These were references to the Treasury of special applications for Escheated Slaves by equitable claimants of Intestate Estates.

Mr. Goulburn to
Mr. Harrison,
3 Nov. 1819.
Mr. Horton to
Mr. Harrison,
31 August 1823.
D^o - d^o 17 Jan.
1825.
D^o - d^o 30 Sept.
1825.
Mr. Horton to Mr.
Hill, 11 Nov. 1826.
D^o 24 March 1827.
Mr. Hill to Mr.
Hay, 20 Feb. 1828.
Mr. Hay to Mr.
Hill, 29 Apr. 1828.
Mr. Stewart to Mr.
Hay, 14 July 1828.
Mr. Twiss to
Mr. Stewart,
15 May 1829.
17 January 1825.
30 September 1825.
11 November 1826.
24 March 1827.

The Secretary of State, however, whilst he assented to the grant of the slave in this particular case, expressly reserved his opinion upon the general question. After Sir G. Murray came into office, some further communication took place; but the subject has been hitherto left on the part of their Lordships as it stood in Mr. Hill's letter of the 20th February 1828, by which it appeared that their Lordships were willing to forbid the sale of escheated slaves for the advantage of the Crown, but felt some difficulty in refusing the grant of such slaves to equitable claimants. The conflicting claims of the slaves to their freedom, and of the equitable claimants to a property in the slaves, were compared in a memorandum which was communicated by direction of Sir George Murray to their Lordships office, and of which a copy is enclosed, as well as in the Report to the counsel to this department already adverted to, which was adopted and communicated to their Lordships in 1823 by direction of Earl Bathurst. This, therefore, appears to be the point on which their Lordships and this Department have not altogether concurred in opinion, although it does not appear by Mr. Hill's letter of the 20th February 1828, that their Lordships have decidedly adopted an opinion contrary to that which has been maintained by this department.

I have been directed thus to resume the previous correspondence on this subject, for the purpose of showing that this Department has not been hitherto generally responsible for the course which has been taken in the sale and grant of escheated slaves; and I am to request you to state to their Lordships, that unless Sir G. Murray could see reasons which have not yet been suggested to him for dissenting from the opinion which Lord Bathurst adopted, and from which there has been no subsequent departure, Sir George Murray would not think himself justified in assuming a responsibility which has not hitherto attached to this Department."

The MEMORANDUM enclosed in the foregoing Letter.

THE Treasury, it appears, are willing to manumit slaves escheating to the Crown in cases in which there are no equitable claimants of the property in those slaves; but when there are such claimants—claimants who in any other cases of escheat would have received from the Crown a grant of the property, they appear to think that it would not be just to deny a grant of the slaves.

The cases in which equitable claims do not exist to escheated property are so few, that the measure of the Treasury would go but a little way.

The justice of the case is a difficult question, and one which touches the first principles upon which slavery questions are usually argued.

It is usual to contend, on the part of the slaves, for the natural right of man to freedom, and, on the part of the owners, for the inviolability of the rights of property. In the present case, whatever there is in the former argument remains, but a good deal is lost to the latter; because the right here, if a right, is only that sort of qualified right which is called an equitable claim.

Where there is no absolute right, and no paramount obligation resulting from a principle, the Government are free to revert to considerations of general expediency.

The benefit attendant upon the grant of the property is the prevention of the hardship which the grantee would have suffered by deprivation of the succession upon which he had more or less built his expectations. But it is not necessary to suppose that expectations of this kind are in all cases very confidently entertained. They are liable to be disappointed by the extravagance or caprice of a testator, by his consuming or diverting the inheritance, as well as by the forfeiture resulting from intestacy, or from other grounds of escheat. The sort of benefit attendant on the grant may therefore be fairly stated to be the relief of one or more individuals from the consequences of an unfortunate casualty.

The benefit attendant upon denying the grant is the manumission of the slaves. What this benefit amounts to depends a good deal upon the class of owners to whom the slaves, if granted, would generally fall. As far as my experience goes, the petitioners for grants of escheated slaves have been low, coloured people, relatives of persons in the same class, who, as they often cohabit without marriage,

riage, and are too ignorant or careless to make wills, happen more frequently than others to leave their property escheatable to the Crown. Persons in that low condition of life make notoriously the most oppressive masters of slaves. It is natural that this should be the case; and it has been observed to be the case with regard to ancient slavery as well as modern, "*quod ex dignitate domini minus turpis est conditio servi.*"

These coloured people are also the class who would be the least injured by barring their succession to a property in slaves; since their position in life would make it no great hardship to gain their own subsistence. The certificate of the Governor to the humane character of the parties (which the Treasury propose to make a condition of the grant) would be no security. The Governor could have no personal knowledge of persons in this class; and in truth a certificate to character, very respectably signed, may generally be had by any man who is not in the habit of defying public opinion: there is nothing so loosely given. I think, therefore, that in general, and upon the whole, the benefit which the Government would confer by releasing escheated slaves from the bitter servitude in question, would be greater than the hardship which this release might impose upon the expectants of the property.

The particular case to which the Treasury advert of the 300 slaves in Grenada appears to be an anomalous case, of which there may probably be no second example. These slaves belong to estates which escheated in 1795 by virtue of an act of attainder, and which it is now proposed to restore to the heirs of the person who was attainted; from the time of the attainder to the present time the estates have been worked by the slaves under the management of an agent for the Crown.

I should be against the manumission of these slaves; not however from considerations of what is due in justice to the equitable claimants; for (considering the general principle of holding inviolate the rights of property to be untouched in the question) I apprehend there is nothing in the justice of the case as regards the interests of the two or three equitable claimants, which could overrule the justice of the case as regards the interest of the 300 slaves; but I should doubt whether it is expedient that slaves should be manumitted by gangs of 300. The objection might be obviated, indeed, if a plan were devised for training them into a tenantry; but the Government are generally averse from such plans, as being practically difficult of execution.

If the estates were given up as proposed by the Treasury, there is no reason to suppose that the slaves would be worse off than other plantation slaves in the island, but they would probably be worse off than they have been. Slaves worked for the profit of the Crown are not likely to be so hard worked as when they are worked for the profit of an individual. Twelve hours and a half for the six months out of crop, and fourteen hours for the six months in crop, is the general rate of slave-labour on plantations; but this is a rate of labour which it would scarcely be desired to enforce for the benefit of the Crown. I think, therefore, that if the Crown shall give up the property, it would be better to give it up virtually only, by paying over the net profits of the plantations, but to retain the plantations in the possession and under the management of the Crown. It appears that half the annual net profits have been given up and paid over in this way since 1823.

The Crown, by giving up these plantations, would give up the power of enforcing, to a certain extent, those regulations for ameliorating the condition of the slaves which the King's Government have declared to be necessary upon all plantations.

No. 12.

EXTRACT of a LETTER from the Hon. *J. Stewart* to *Horace Twiss*, Esq.;
dated Treasury Chambers, 30th October 1830.

"I AM commanded by the Lords Commissioners of His Majesty's Treasury to acquaint you, for the information of Secretary Sir George Murray, that my Lords
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have had under their careful consideration your letter of the 16th August last, respecting the mode of disposing of slaves escheated to the Crown; and my Lords consider from your said letter, that Sir George Murray concurs generally in the suggestions transmitted to this Board by desire of Secretary the Earl Bathurst in 1823, which were contained in the Report of the Counsel to the Colonial Department, and also in the observations contained in the Memorandum respecting escheated slaves, enclosed in your said letter.

"In a letter addressed from this Board to Mr. Hay, on the 20th February 1828, my Lords expressed the difficulty which they entertained in adopting the suggestions of the counsel to the Colonial Office; and my Lords have not been made acquainted with the opinion of the Secretary of State since the 29th April 1828, when Mr. Hay, in his letter of that date, stated, by Mr. Secretary Huskisson's desire, that he reserved 'for a future communication the expression of his opinion as to the manner in which escheated slaves should be disposed of when there were equitable claimants to the property in them.'

"If, however, Sir George Murray is now prepared to propose any specific regulations for disposing of such slaves escheated to the Crown, whether they be slaves employed in agriculture, and attached to escheated property, or slaves employed in domestic occupations, or otherwise; whether they be old and infirm, or young and incapable of providing for themselves, or whether they be of bad character, and unfit for freedom, my Lords will give careful and immediate consideration to any regulation which Sir George Murray may propose for that purpose."

No. 13.

COPY of a LETTER from *Viscount Howick* to the Hon. *J. Stewart*;
dated Downing-street, 9th December 1830. One Enclosure.

Sir,

Downing-street, 9th December 1830.

I AM directed by Viscount Goderich to acknowledge the receipt of your letter of the 30th October, addressed to Mr. Twiss, in which you acquaint him, by direction of the Lords Commissioners of the Treasury, for the information of Sir George Murray, that, "if he is now prepared to propose any specific regulations for disposing of slaves escheated to the Crown, whether they be slaves employed in agriculture and attached to escheated property, or slaves employed in domestic occupations, or otherwise, whether they be old and infirm, or young and incapable of providing for themselves, or whether they be of bad character and unfit for freedom, My Lords will give careful and immediate consideration to any regulation which Sir George Murray may propose for that purpose." And I am to inform you in reply, that Viscount Goderich is prepared to recommend to their Lordships, that slaves hereafter escheating to the Crown, or having escheated, and being still in its possession, should be dealt with in the same manner as slaves who become forfeited to the Crown under the Abolition Act. Slaves of the various classes mentioned by you are liable to forfeiture for violations of that Act, as well as to forfeiture by escheat; and the majority of those slaves being Africans, are presumably of a less manageable description than the escheated slaves, who will be for the most part Creoles. The regulations under which Sir George Murray directed the liberation of slaves forfeited under the Abolition Act are fully set forth in the circular despatch from him to the governors of several West India colonies, a copy of which was transmitted to you in Mr. Twiss's letter of 6th April last. The reports which have been received from the colonies in which the forfeited slaves have been liberated under these regulations, show that no inconvenience has been found to result to those colonies from this measure, whilst the Crown has been relieved from a heavy annual charge for their maintenance by the collectors of the customs. A much smaller sum than that which has thus been saved will suffice in future to provide for the support of those who, being infant orphans, or aged or infirm, may be incapable of maintaining themselves; and for the religious instruction which their Lordships may think fit to afford to those in Tortola and the Bahamas who, being in large numbers, have been located on Crown-lands there. In these colonies the escheated slaves might be

16th October 1828.
Note: A Copy of it follows.

be added, if it were found necessary, to the settlements of liberated Africans; in Trinidad, they might be added to that of disbanded black soldiers; and in British Guiana, they might follow the destination of the Winkel Negroes, if those people should be located, as has been proposed. Lord Goderich would not however suggest the location of escheated slaves without their own consent, unless in the event, which he does not anticipate, of any able-bodied escheated slaves being unable otherwise to support themselves.

Lord Goderich would further observe, that in giving this sketch of the manner in which he thinks escheated slaves should be disposed of, he is quite prepared to modify the details of the proposed plan in any manner their Lordships may be pleased to suggest; but he thinks it of the utmost importance that they should sanction without delay the general principle contended for by this Department, that of liberating escheated slaves.

I have, &c.

(signed) HOWICK.

CIRCULAR DESPATCH to which reference is made in the foregoing Letter.

Sir,

Downing-street, 16th October 1828.

THE Reports of the successive Commissioners appointed to inquire into the condition of apprenticed Africans in the West India Islands, have engaged the careful attention of His Majesty's Government, although from circumstances, which it is unnecessary to particularize, my predecessors in office were prevented from signifying to you the determination which has been adopted on this subject.

All the successive Commissioners are agreed in the opinion that the apprenticed Africans would not in general, except by direct compulsion, be induced to quit the colonies in which they had been serving their apprenticeships, and that the use of any compulsory measure for that purpose would be attended with extreme distress to the parties more immediately affected by it. Respecting the advantage which would accrue to the colonies from which such removals might be made, the Commissioners are not agreed. But all, except one, of the six gentlemen who were successively employed in this inquiry, deem it better that the apprentices should remain in the colonies which they at present inhabit.

Adverting to the various facts and arguments adduced on either side of this discussion, I am to issue for the guidance of yourself and the officers of customs within your government, the following instructions:

First, that you will direct the chief officer of customs of the island of forthwith to transmit to you a list of all persons within the island who have been apprenticed under the Acts for the abolition of the slave trade, distinguishing African and Creole apprentices from each other, and further distinguishing which of the apprentices have served out the whole term of their indentures, and what period remains to be served by each of those whose apprenticeship is yet unexpired.

You will further call upon the chief officer of customs for a list of all captured Africans or Creoles remaining in his custody, for whom it has not been practicable to find masters, and who have been apprenticed to himself under the order in council of the 19th July 1825, distinguishing especially such as may be employed in his own domestic service, and further distinguishing which of them are capable of earning their own subsistence.

You will cause a general muster, and personal inspection to be made in your own presence, of all the apprenticed Africans, negroes and persons of colour, whose term of apprenticeship has expired, and of all persons apprenticed to the chief officer of customs under the order in council of the 19th July 1825. In all cases where the terms of apprenticeship have expired, and in all other cases where any of those persons shall have been reported by the custom-house officers, or shall appear to yourself to be capable of earning their own subsistence, you will proceed to grant to each of them, a certificate under your own hand and

seal, of the fact that they have become entitled to freedom under the Acts for the abolition of the slave trade, and you will cancel the indentures to the chief officer of customs entered into under the order of the 19th July 1825. You will further apprise them that thenceforward they will be permitted to live in the colony precisely on the same conditions as any other free persons of African birth and descent, subject only to the following exception :

The 31st section of the statute 5th Geo. IV. c. 113, having authorized His Majesty in Council to make all necessary regulations for the disposal of apprentices after the indentures have expired or been cancelled, so as to prevent their becoming chargeable to the colony in which they have been bound apprentices, you will apprise these persons that His Majesty will not exercise the powers thus intrusted to him by Parliament, so long as their own continued good conduct may render it unnecessary to resort to any measures of coercion. But they must at the same time be given distinctly to understand, that if within the period of seven years, any of their number should be convicted of theft, or any other offence against the peace of society, or should be found seeking a subsistence as a common beggar or vagrant, or should become chargeable upon any parochial or public rates, except in cases of sickness or other inevitable accident, measures will be adopted for the removal of any such offender, pauper, or vagrant from the colony in which he is at present settled, to some other part of His Majesty's dominions, where he will be constrained to labour for his subsistence.

A similar certificate of liberty, accompanied with a similar admonition as to the consequences of possible misconduct, must be given to every condemned negro who shall hereafter serve out the time of his apprenticeship, or who, not being apprenticed, shall be reported to you by the officers of customs as being capable of earning his own subsistence.

Whenever any person shall hereafter be condemned to the Crown under the Acts for the abolition of the slave trade, the officers of customs must, before such person is apprenticed, report to you whether he is capable of earning his own subsistence ; and no person must hereafter be apprenticed until you are satisfied of his incapacity for maintaining himself by his own free labour.

You will adopt such measures as may appear to you best calculated for ascertaining at stated intervals the actual condition of these persons, and especially whether they really betake themselves to industrious pursuits, or become burthensome to society as convicts, vagrants or paupers. If experience shall show the necessity of subjecting any of them to positive coercion in order to prevent their becoming burthensome to society, His Majesty's Government will not hesitate to adopt the necessary measures for that purpose, and will either place such persons under a superintendent, armed with necessary powers for their government, in the colony in which they reside, or will authorize their removal to Trinidad, where an establishment of this nature is already in existence. Until the experiment has been fairly tried, it is not deemed right that these persons should be subjected to the distress attendant upon an abrupt removal from the colony in which they have been so long settled ; nor on the other hand, is it fit that the public revenue should any longer be subjected to the very serious burthen of maintaining a large body of persons, many of whom, as there seems every reason to suppose, are perfectly competent to provide for their own maintenance.

I have, &c.

(signed) *G. Murray.*

No. 14.

COPY of a LETTER from the Hon. *J. Stewart* to Viscount *Howick*, dated Treasury, 21st January 1831.

My Lord,

Treasury Chambers, 21st January 1831.

HAVING laid before the Lords Commissioners of His Majesty's Treasury your letter of the 9th December last, in reply to one from this Board, on the subject of disposing of slaves escheated to the Crown, I have it in command to acquaint your Lordship, for the information of Viscount Goderich, that my Lords
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have fully considered his recommendation for the disposal of all slaves escheated to the Crown, and they concur generally in the views which his Lordship has expressed on that subject, viz. that slaves escheated to the Crown ought to be dealt with in the same manner as slaves forfeited to the Crown under the Slave Abolition Act, as set forth in the Circular Letter from his Lordship's Department, addressed to the Governors of the several West India Colonies, on the 16th October 1828, respecting slaves condemned to the Crown, referred to in Mr. Twiss's Letter of the 6th April 1830. A consideration of the equitable claims of parties to the grant of escheated slaves, has formed an impediment to any general arrangement for granting freedom to escheated slaves, but under all the circumstances my Lords are of opinion that the claim of the slave to receive his freedom from the King, after having become legally the property of the Crown, is superior to the equitable claim of any party to a grant of the slave, by the admission of which he would be retained in slavery.

I am, &c.

(signed) *J. Stewart.*

No. 15.

COPY of a CIRCULAR DESPATCH from Viscount Howick to the Governors of all the West India Colonies, except Jamaica.

Sir,

Downing-street, 24th Jan. 1831.

I ENCLOSE for your information Copies of a Correspondence which has taken place between this Department and that of the Lords Commissioners of the Treasury on the subject of slaves escheating to the Crown. In conformity with the decision which you will perceive to have been taken by His Majesty's Government, you will cause any slaves who may now be in the possession of the Escheator General for the colony under your government, or of any other person holding them for the Crown as escheated property, or any slaves who may hereafter escheat to the Crown, to be forthwith liberated, and dealt with in the same manner as the captured Africans whose liberation was directed in Sir George Murray's Circular Despatch of the 16th October 1828.

I have, &c.

(signed) *Goderich.*

COPY of a LETTER from the Hon. J. Stewart to Viscount Howick dated
Treasury, 21st January 1831

My Lord,
Having laid before the Lords Commissioners of His Majesty's Treasury
your letter of the 10th December last in reply to one from this Board, on the
subject of the disposal of slaves escheated to the Crown, I have it in command to
acknowledge the forwarding of the information of Viscount Howick, that my Lords
have

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ESCHEATED SLAVES.

RETURN to an Address of the Honourable The House of
Commons, dated 3 June 1829;—*for*,

AN ACCOUNT

Of the final Disposal of the SLAVES ESCHEATED
to The Crown in the Colonies of the *West
Indies*, since 1st January 1821, and whose Cases
have been referred to the Decision of His
Majesty's Government.

Ordered, by The House of Commons, to be Printed,
7 February 1831.